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Supreme Court, U.S.
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No. 03-1267

IN THE

Supreme Court of the United States

GABE KAIMOWITZ,

Petitioner,

vs.

ORLANDO, FL., RICK BERNHARDT, and ORLANDO NEIGHBORHOOD IMPROVEMENT CORPORATION,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

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RESPONDENTS' BRIEF IN OPPOSITION

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QUESTIONS PRESENTED FOR REVIEW

I. WHETHER RULE 60(b), FEDERAL RULES OF CIVIL PROCEDURE CAN PROVIDE THE PETITIONER WITH RELIEF FROM A VALID JUDGMENT FOR ATTORNEY'S FEES ENTERED MORE THAN THREE YEARS AGO, ASSUMING THE PETITIONER'S PETITION FOR WRIT OF CERTIORARI WAS TIMELY.

II. WHETHER PETITIONER'S DUE PROCESS RIGHTS WERE VIOLATED BY A VALID JUDGMENT ENTERED AGAINST HIM FOR ATTORNEY'S FEES MORE THAN THREE YEARS AGO, ASSUMING THE PETITIONER'S PETITION FOR WRIT OF CERTIORARI WAS TIMELY.

III. WHETHER THIS IS AN APPROPRIATE CASE FOR THE IMPOSITION OF MONETARY SANCTIONS AGAINST THE PETITIONER UNDER RULE 42.2.

PARTIES

The caption of this brief reflects all parties to the proceedings in the Court which rendered the judgment sought to be reviewed; however, the undersigned counsel appears only for the Respondents, Orlando, Florida and Rick Bernhardt.

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CITATIONS OF UNOFFICIAL REPORTS OF ORDERS ENTERED

All relevant orders entered from Courts below were unreported. Relevant orders appear within the Petitioner's Appendix. References are made in this brief to judgments and orders appearing within the Petitioner's Appendix.

STATEMENT OF THE BASIS FOR JURISDICTION

The merits of this appeal are utterly frivolous, as were most of the efforts of the Petitioner, Gabe Kaimowitz (hereinafter referred to as the "Petitioner"), in both the U.S. District Court for the Middle District of Florida and the U.S. Court of Appeals for the Eleventh Circuit. The Petitioner has failed in this appeal to establish any compelling grounds to grant his Petition for Writ of Certiorari. In fact, the Petition for Writ of Certiorari fails to even mention Rule 10, Rules of the Supreme Court of the United States, which provides guidance as to the compelling grounds this Court generally considers when granting certiorari. See generally Haitian Refugee Center, Inc. v. Baker, 502 U.S. 1122, 112 S. Ct. 1245, 117 L.Ed.2d 477 (1992).

Pursuant to Rule 10, Rules of the Supreme Court of the United States, review by this Court on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted by this Court only for compelling reasons. In granting a petition for writ of certiorari, this Court usually considers whether a U.S. Court of Appeals has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter; whether a U.S. Court of Appeals has decided an important federal question in a way that conflicts with the decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial

proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. A petition for writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law. Rule 10, Rules of the Supreme Court of the United States.

Notwithstanding the fact that the Petitioner has failed to establish any of the considerations governing review on certiorari found in Rule 10, Rules of the Supreme Court of the United States, the Petitioner's Petition for Writ of Certiorari is an untimely attempt to circumvent Rule 13, Rules of the Supreme Court of the United States, which mandates that a petition for writ of certiorari to review a "judgment" in any case, civil or criminal, entered by a United States Court of Appeals, is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment. See County of Sonoma, et al. v. Isbell, et al., 439 U.S. 996, 99 S. Ct. 597, 58 L. Ed. 2d 669 (1978) (petition for certiorari was jurisdictionally untimely); Sunset Scavenger Company, et al. v. William Roberts, et al., 434 U.S. 877, 98 S. Ct. 229, 54 L. Ed. 2d 156 (1977) (petition for writ of certiorari denied as untimely); Fogg, et al. v. Welcome, 432 U.S. 911, 97 S. Ct. 2960, 53 L. Ed. 2d 1084 (1977) (petition for writ of certiorari denied as untimely filed); Forrow v. Estelle, 419 U.S. 1013, 95 S. Ct. 333, 42 L. Ed. 2d 287 (1974) (petition for writ of certiorari denied as untimely.)

Essentially, the Petitioner bravely asserts that his Petition for Writ of Certiorari is timely because it was filed with this Court within 90 days of the dismissal on November 6, 2003, of an appeal deemed to be frivolous by the U.S. Court of Appeals for the Eleventh Circuit. That appeal was from an Order dated July 23, 2003, denying as "untimely" a Rule 60(b) motion filed with the U.S. District Court for the Middle District of Florida, Orlando Division, substantially

more than one year from the dates of entry of judgments to which the Rule 60(b) motion was directed, namely, a summary judgment entered against Petitioner on November 26, 1999, and a $20,000 judgment entered against Petitioner on January 25, 2001, for attorney's fees. The Petition for Writ of Certiorari is an unclever, obvious stalling device to avoid the finality of judgments entered long ago against the Petitioner, especially the $20,000 judgment entered against him on January 25, 2001, which remains unsatisfied. The frivolousness of this appeal is commensurate with the Petitioner's tenacious pursuit of a frivolous and vexatious lawsuit filed against the Respondents in the absence of any evidence. This appeal should be dismissed for want of jurisdiction.

STATUTES AND RULES INVOLVED

28 U.S.C. §455(a) states in pertinent part: "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

31 U.S.C. §3729(a)(1) states in pertinent part: "Liability for certain acts. -- Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; ... is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person, ..."

31 U.S.C. §3730(b) states in pertinent part: "Actions by private persons.-- (1) A person may bring a civil action for a violation of section 3729 for the person and for the

United States Government. The actions shall be brought in the name of the Government..."

31 U.S.C. §3730(d)(4), states: "If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorney's fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious or brought primarily for purposes of harassment."

Rule 60(b), Federal Rules of Civil Procedure, states in pertinent part: "Mistakes; Inadvertence; Excusable; Neglect; Newly Discovered Evidence; Fraud, Etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment order or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have perspective application; or (6) any other reason justifying relief from the operation of the judgment..."

Rule 13.1, Rules of the Supreme Court of the United States, states in pertinent part: "Unless otherwise provided by law, a petition for a writ of certiorari to review a judgment in any case, civil or criminal, entered by a state court of last resort or a United States court of appeals (including the United States Court of Appeals for the Armed Forces) is

timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment..."

Rule 42.2, Rules of the Supreme Court of the United States, states: "When a petition for writ of certiorari, an appeal, or an application for other relief is frivolous, the Court may award the respondent or appellee just damages, and single or double costs under Rule 43. Damages or costs may be awarded against the petitioner, appellant, or applicant, against the party's counsel, or against both party and counsel."

STATEMENT OF THE CASE

This long and protracted litigation commenced with the Petitioner filing a qui tam action against Orlando, Florida and Rick Bernhardt (hereinafter referred to as the "Respondents"), as well as the Orlando Neighborhood Improvement Corporation, alleging violations under the False Claims Act, 31 U.S.C. §3729-3733. (p.3-a, Petitioner's App.) The Petitioner's complaint alleged that the Respondents had made claims violative of federal law to induce Community Block Grant Development ("C.D.B.G.") funds and other grants and loans from the U.S. Department of Housing and Urban Development ("H.U.D."). (p. 8-a, Petitioner's App.) The Petitioner's complaint also sought "injunctive relief to bar use of such funds for maintenance and expansion of a commercial district, low-income public housing, and alleged rehabilitation of multi-family low-income rental units in virtually all black neighborhoods of Orlando." (p. 8-a, Petitioner's App.) Over the course of the proceedings in the district court, the Petitioner filed thousands of pages of documents, deposition transcripts, affidavits, newspaper articles, collages, and other paper, much of which was repetitive, and most of which was completely irrelevant to the list of False Claims alleged by

the Petitioner. (p.23-a, Petitioner's App.) In light of the voluminous documentation submitted by the Petitioner in the district court, the Petitioner left no stone unturned in his search for false or fraudulent claims. However, despite voluminous filings, and what the U.S. District Court for the Middle District of Florida, Orlando Division, described as an "expensive and unfruitful fishing expedition", the Petitioner failed to present any evidence which demonstrated that any of the Respondents knowingly made a false or fraudulent claim to the federal government in violation of the False Claims Act. (p. 24-a, Petitioner's App.)

All of the Respondents moved for summary judgment. The U.S. District Court for the Middle District of Florida eventually entered summary judgments in favor of the Respondents and against the Petitioner in this qui tam action on November 25, 1996. (p. 18-a, Petitioner's App.) Summary judgments were entered in favor of the Respondents because the Respondents had presented evidence in the district court which demonstrated that they had taken all reasonable efforts, including, internal and external audits, to ensure substantial compliance with all applicable federal laws relating to all federal funding for all projects. Based on the frivolousness of the qui tam action, the Respondents requested attorney's fees and costs under 31. U.S.C. §3730(d)(4). (p. 36-a, Petitioner's App.) Thereafter, the Petitioner began an appellate process which can only be described as tenacious.

Eventually, on February 17, 1999, the U.S. Court of Appeals for the Eleventh Circuit granted the Respondents' motions for attorney's fees as to entitlement and remanded the matter to the U.S. District Court for the Middle District of Florida, Orlando Division, for a hearing to determine the reasonable amount of attorney's fees to be awarded after finding that the case was clearly frivolous and vexatious for

the purpose of awarding appellate fees. (p. 36-a, Petitioner's App.) After hearings on the issue of attorney's fees were held, U.S. Magistrate Judge David A. Baker of the U.S. District Court for the Middle District of Florida, Orlando Division, recommended that the Respondents be awarded attorney's fees of $20,000. (p. 46-a, Petitioner's App.) U.S. District Judge Patricia C. Fawsett of the U.S. District Court for the Middle District of Florida, Orlando Division, approved the aforementioned recommendation and on January 25, 2001, judgment was entered in favor of the Respondents and against the Petitioner in the amount of $20,000. (p. 46-a, Petitioner's App.) Undeterred, the Petitioner appealed that judgment, as well as a denial of his motion to recuse the district judge under 28 U.S.C. §455. On February 14, 2002, the U.S. Court of Appeals for the Eleventh Circuit affirmed the award of $20,000 in attorney's fees in favor of the Respondents by the U.S. District Court for the Middle District of Florida, Orlando Division. (p. 59-a, Petitioner's App.) The United States Court of Appeals for the Eleventh Circuit also affirmed the denial of the Petitioner's motion to recuse the district court judge under 31 U.S.C. §3729-3733.

Not one to suffer defeat lightly, on June 13, 2003, the Petitioner filed his Motion/Memo of Law to Set Aside Judgments Obtained By Fraud, Misrepresentation with the U.S. District Court for the Middle District of Florida, Orlando Division, which alleged conspiratorial judicial misconduct in relation to a newly proposed federal courthouse in Orlando. (p. 3-a, Petitioner's App.) The Petitioner's Motion/Memo of Law To Set Aside Judgments Obtained By Fraud, Misrepresentation was filed by the Petitioner pursuant to Rule 60(b), Federal Rules of Civil Procedure. In its Order dated July 23, 2003, the U.S. District Court for the Middle District of Florida, Orlando Division, denied the Petitioner's Motion/Memo of Law To Set Aside

Judgments Obtained By Fraud, Misrepresentation as *untimely* since the orders to which the motion was directed were entered substantially more than one year prior to the filing of the Petitioner's Motion/Memo of Law to Set Aside Judgments Obtained by Fraud, Misrepresentation. (p. 3-a, Petitioner's App.) In the same July 23, 2003, Order, the U.S. District Court for the Middle District of Florida, Orlando Division, stated as to the Petitioner's allegations:

> "In support of his motion, he has made repeated allegations of conspiratorial judicial misconduct in relation to a newly proposed federal courthouse in Orlando. These vague allegations are not only leveled against district judges in Orlando, but are also directed against judges on the Eleventh Circuit Court of Appeals. Judges of this court, as well as the Eleventh Circuit, previously addressed these allegations, and it is not necessary to address them again, because Qui Tam Plaintiff's motion is untimely."

From that Order, the Petitioner appealed to the U.S. Court of Appeals for the Eleventh Circuit. On November 6, 2003, the U.S. Court of Appeals for the Eleventh Circuit dismissed that appeal as "frivolous." (p. 1-a, Petitioner's App.) It is from that dismissal by the U.S. Court of Appeals for the Eleventh Circuit, that the Petitioner claims that this Petition for Writ of Certiorari is timely with this Court.

ARGUMENT

I. RULE 60(b), FEDERAL RULES OF CIVIL PROCEDURE DOES NOT PROVIDE THE PETITIONER WITH RELIEF FROM A VALID JUDGMENT FOR ATTORNEY'S FEES ENTERED MORE THAN THREE YEARS AGO, ASSUMING ARGUENDO THAT THE PETITIONER'S PETITION FOR WRIT OF CERTIORARI WAS TIMELY

Rule 60(b), Federal Rules of Civil Procedure provides, in pertinent part, that a court may relieve a party:

> from a final judgment, order, or proceeding for the following reasons...(3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party...The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken.

Since the Petitioner's Motion/Memo Of Law To Set Aside Judgment(s) Obtained By Fraud, Misrepresentation originally filed with the U.S. District Court for the Middle District of Florida, Orlando Division, was brought more than one (1) year after the judgments in question were entered, relief could not be provided under Rule 60(b)(3), Federal Rules of Civil Procedure to the Petitioner.

Even if the Petitioner's Motion/Memo Of Law To Set Aside Judgment(s) Obtained By Fraud, Misrepresentation could have been maintained under Rule 60(b)(3), Federal Rules of Civil Procedure, the clear and convincing standard of proof governs. Booker v. Dugger, 825 F.2d 281, 284 (11th Cir. 1987) (quoting Montgomery v. Hall, 592 F.2d 278 (5th Cir. 1979)). It is clear that the policy of finality of judgments requires the same, if not more stringent, standards be applied to independent actions alleging fraud on the court which are brought after the one (1) year time limit has run. See Booker, supra. at p.284; see also Johnson Waste Materials v. Marshall, 611 F.2d 593, 600 (5th Cir. 1980); Rozier v. Ford Motor Company, 573 F.2d 1332 (5th Cir. 1978). "[C]onclusory averments of the existence of fraud made on information and belief and unaccompanied by a statement of clear and convincing probative facts which support such belief do not serve to raise the issue of the existence of fraud [under Rule 60(b)]." Booker, supra. at pp.283-284; see also Di Vito v. Fidelity & Deposit Company of Maryland, 361 F.2d 936, 939 (7th Cir. 1966).

Assuming arguendo that the Petitioners' Motion/Memo Of Law To Set Aside Judgment(s) Obtained By Fraud, Misrepresentation was an attempt to maintain an independent action within the meaning of the savings clause of Rule 60(b), Federal Rules of Civil Procedure, the elements for an independent action were not shown by the Petitioner.

The United States Court of Appeals for the Eleventh Circuit has held that the elements of an independent action under Rule 60(b) are:

> (1) a judgment which ought not, in equity and good conscience, be enforced; (2) a

> good defense to the alleged cause of action in which the judgment is founded; (3) fraud, accident, or mistake prevented the defendant in the judgment from obtaining the benefit of his defense; (4) the absence of fraud or negligence on the part of the defendant; and (5) the absence of any adequate remedy at law.

Securities and Exchange Commission v. E.S.M. Group, Inc., et al., 835 F.2d 270, 272-273 (11th Cir. 1988); see also Bankers Mortgage Company v. United States, 453 F.2d 73, 79 (5th Cir. 1970), cert. denied 399 U.S. 927, 90 S. Ct. 2242, 26 L. Ed. 2d 793 (1970) (quoting National Surety Company v. State Bank, 120 F. 593, 599 (8th Cir. 1903)).

In the case at bar, the Petitioner could not establish the elements necessary to maintain an independent action under Rule 60(b). The fraud which the Petitioner asserted tainted the outcome of the judgments in question had nothing to do with the Respondents' entitlement to summary judgment and entitlement to attorney's fees. In fact, the Petitioner had no good defense to the Respondents' motion for summary judgment or motion for attorney's fees despite voluminous filings in what appeared to be an expensive and unfruitful fishing expedition. The Petitioner failed to present any evidence to the district court which demonstrated that any defendant knowingly made a false or fraudulent claim to the federal government in violation of the False Claims Act. Since there were no material issues of fact presented regarding the knowledge of the Respondents of any false claims, or any false claims being filed, the motions for summary judgment of the Respondents were properly

granted by the district court and the subsequent entry of a judgment for attorney's fees against the Petitioner was completely proper. For fraud to lay a foundation for an independent action under Rule 60(b), Federal Rules of Civil Procedure, it must be such that is was not an issue in the former action, nor could it have been put in issue by the reasonable diligence of the opposing party. See The Travelers Indemnity Company v. Gore, et al., 761 F.2d 1549, 1552 (11th Cir. 1985); see also Toledo Scale Company v. Computing Scale Company, 261 U.S. 399, 425, 43 S. Ct. 458, 465, 67 L. Ed. 719 (1923).

The Petitioner could not use an independent action under Rule 60(b) as a vehicle for the relitigation of issues. "Courts have consistently held that a party is precluded by res judicata from relitigation in the independent equitable action issues that were open to litigation in the former action where he had a fair opportunity to make his claim or defense in that action." Bankers Mortgage Company v. United States, 453 F.2d 73, 79 (5th Cir. 1970); see also The Travelers Indemnity Company, supra at p. 1552. The record below is replete with repeated allegations by the Petitioner of conspiratorial judicial misconduct in relation to a newly proposed federal courthouse in Orlando. These vague allegations were not only leveled against district judges in Orlando, but were also directed against judges with the U.S. Court of Appeals for the Eleventh Circuit. District judges with the U.S. District Court for the Middle District of Florida, as well as judges with the U.S. Court of Appeals for the Eleventh Circuit addressed these frivolous conspiratorial judicial misconduct allegations in the proceedings below.

Notwithstanding the fact that Rule 60, Federal Rules of Civil Procedure could not provide the Petitioner with any relief, this appeal is yet another vehicle for the Petitioner to again allege conspiratorial judicial misconduct associated

with a new federal courthouse in Orlando. The Petitioner's vague, unsupported conspiracy theories involving federal judges did not rise to a level that required disqualification under 28 U.S.C. §455 for purposes of awarding attorney's fees against the Petitioner after his unsuccessful pursuit of a frivolous lawsuit. Although the purpose of Rule 455(a) is the promotion of public faith in the integrity of the judicial process, a second aim of the recusal statute is to ensure that a judge does not recuse herself on "unsupported, irrational or highly tenuous speculation." See Liljeberg v. Health Services Acquisition Corporation, 46 U.S. 847, 859-60, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988); United States v. Greenough, 782 F. 2d 1556, 1558 (11th Cir. 1986).

The standard for recusal under §455(a) is "whether an objective, disinterested, lay observer fully informed by the facts underlying the grounds on which recusal was sought would entertain significant doubt about the judge's impartiality." United States v. Torkington, 874 F. 2d 1441, 1446 (11th Cir. 1989) (quoting Parker v. Connors Steel Company, 855 F. 2d 1510, 1524 (11th Cir. 1988)). It is well settled that a federal judge has "an affirmative duty" not to disqualify himself or herself unnecessarily. National Autobrokers Corporation v. General Motors Corporation, 572 F. 2d 953, 958 (2d Cir. 1978); Rosen v. Sugarman, 557 F. 2d 794, 797-98 (2d Cir. 1966), cert. denied, 439 U.S. 1072, 99 S. Ct. 844, 59 L. Ed. 2d 38 (1979); Levitt v. University of Texas, 847 F. 2d 221 (5th Cir. 1988) (denying motion to disqualify based upon the plaintiff's conclusory allegations that the judge "received *ex parte* communications about the case either through his wife or from Dr. Sawyer"); see also Phillips v. Joint Legislative Comm., 637 F. 2d 1014 (5th Cir. Unit A 1981) ("[S]ection 455 does not require the judge to accept all allegations by the moving party as true.").

The district judge, as well as judges of the U.S. Court of Appeals for the Eleventh Circuit were not disqualified by the standard for recusal under §455(a) from deciding issues associated with judgments entered against the Petitioner because of their knowledge of a new federal courthouse in Orlando, which has not even been built yet. The Petitioner's unrelentless claims that the impartiality of federal judges was compromised in this case because of their knowledge of a new federal courthouse in Orlando, is utterly frivolous especially coming from an attorney.

II. THE PETITIONER'S DUE PROCESS RIGHTS WERE NOT VIOLATED BY A VALID JUDGMENT ENTERED AGAINST HIM FOR ATTORNEY'S FEES MORE THAN THREE YEARS AGO, ASSUMING ARGUENDO THAT THE PETITIONER'S PETITION FOR WRIT OF CERTIORARI WAS TIMELY

The Petitioner's claim that his due process rights were violated because he did not have a meaningful opportunity to be heard regarding the Respondents' entitlement to attorney's fees, coming from an attorney, is so utterly frivolous as to not warrant any discussion. However, it should be noted that with regard to the Petitioner's opportunity to be heard by the district court on the issue of attorney's fees, the Petitioner's own Petition for Writ of Certiorari admits at page 12 that the "magistrate held more than ten hours of hearings on the amount of fees owed to Orlando and Bernhardt on September 1, and October 27, 2000." The extended proceedings associated with this case make it clear that no one has denied Petitioner his day in court. Clearly, the Petitioner's voluminous filings with the U.S. Court of Appeals for the Eleventh Circuit further demonstrate that the Petitioner had more than an ample opportunity to be heard on all of the issues he has raised in this qui tam action. The

Petitioner's distorted framing of the Due Process Clause illuminates the frivolousness of this entire appeal.

III. THIS IS AN APPROPRIATE CASE FOR THE IMPOSITION OF MONETARY SANCTIONS AGAINST THE PETITIONER UNDER RULE 42.2

The Petitioner, an attorney licensed by The Florida Bar, has demonstrated a contempt for the federal courts and our system of justice by raising patently frivolous claims. As a result of the Petitioner's endless efforts to keep this case alive, the Respondents have been denied their right to put an end to this tedious and expensive litigation. In light of the frivolousness of this appeal, as well as the Petitioner's status as a member to The Florida Bar, this appeal is especially suited for the imposition of monetary sanctions under Rule 42.2, Rules of the Supreme Court of the United States. Rule 42.2 provides that "[w]hen an appeal or petition for writ of certiorari is frivolous, the Court may award the appellee or the respondent appropriate damages."

Clearly, this is an appropriate case for monetary sanctions. See Clark v. Florida, 475 U.S. 1134, 106 S. Ct. 1784, 90 L. Ed. 2d 330 (1986) ("The merits of this appeal are utterly frivolous, as were most of appellant's persistent efforts in the courts of Florida...This claim, coming from an attorney, is so utterly frivolous so as to not warrant any further discussion. All this suggests is that appellant considers the judicial system a laboratory where small boys can play."). Monetary sanctions under Rule 42.2 should be awarded against Petitioner in favor of the Respondents based on the frivolousness of this appeal.

CONCLUSION

Based on the foregoing authority, certiorari should be denied. Respectfully, this Court should put an end to this tedious and frivolous litigation and consider the imposition of monetary sanctions against the Petitioner pursuant to Rule 42.2, Rules of the Supreme Court of the United States.

Respectfully submitted,

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